

BUYING OR ACQUIRING A LEASE

Your questions answered

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Buying or acquiring a lease

Right to Buy Scheme

Under the Right to Buy scheme, some tenants are able to buy their home at a price lower than the full market value. The length of time you have spent as a tenant entitles you to a discount on the purchase price of your home.

The Right to Buy scheme generally applies to people who hold secure tenancies. If you are not sure which type of tenancy you have, or if you want to exercise your Right to Buy, visit www.dartford.gov.uk/housing or call us on 01322 343832.

We recommend that you seek independent legal and financial advice about your individual circumstances before making any decisions about buying your home.

Third party involvement

There have been occasions where independent organisations have approached tenants, offering their services in handling the paperwork for the Right to Buy scheme. Some have even misrepresented themselves as being a separate part of the Council.

Sadly, not all of these organisations are genuinely interested in helping you to buy your home and it can end up being a very costly exercise for the tenant. There are nearly always hidden charges for this service – either in the legal and survey charges that are made, or in additional charges attached to the mortgage that is arranged for you.

If you're approached by a third party organisation that offers to handle the paperwork for you, or represent you by acting on your behalf in dealings with the Council regarding your Right to Buy, you should contact us immediately, before signing any papers or proceeding any further.

We offer a completely free service to tenants who want to find out about buying their home. We're happy to explain the whole process to you from start to finish, and will be on hand throughout the whole process to advise you.

Buying a lease

You can buy the lease of a Council property:

- Under the Right to Buy scheme. This applies if you are a secure Dartford Council tenant and you're already living in the property. But there are certain conditions you have to meet before you are able to do so.
- By a transfer of the lease, from the present leaseholder. This is known as an assignment. It would apply if the property was originally purchased under the Right to Buy scheme and the lease is being sold on.

In both cases, you should get a reputable solicitor to handle all the legal paperwork on your behalf.

If you're buying a lease from an existing leaseholder, it's important that you find out if there are any outstanding service charges on the property, so that they are dealt with before the sale, as you will be liable for any charges that become due to be paid on or after the date your purchase is completed. You should therefore ensure that your solicitor obtains all the necessary information about any outstanding debt and accounts for it in the completion statement.

If you buy the lease from an existing leaseholder, you should tell us within 28 days of completing the purchase. As landlord, we have the right to know who is responsible for the property. **Please email leaseholders@dartford.gov.uk.**

You have the right to mortgage your property to a mortgage lender.

Selling on or transferring a lease

Selling your lease

If you purchased your home under the Right to Buy scheme, you can sell it whenever you like. But if you want to sell it within the discount repayment period, you will have to repay a proportion of the discount you received when you bought it, as shown on the next page.

Repaying the discount

The amount you repay will depend on when you sell your property.

If you made your Right to Buy application on or after 18 January 2005 and you want to sell your property within the first five years of your purchase, you will have to repay the discount on the sale price of your property, at the following percentage rates:

- Within one year of purchase 100% of the discount
- Within two years of purchase 80% of the discount
- Within three years of purchase 60% of the discount
- Within four years of purchase 40% of the discount
- Within five years of purchase 20% of the discount

After 5 years, you can sell your leasehold property without having to repay any discount.

Working out how much you will have to repay probably looks quite complicated, but in simple terms what this means is that if you sell within 5 years the amount you have to repay will be a percentage of the resale value of your property, rather than a proportion of the original discount received. There are some examples on the next page to help you.

When we calculate the amount of discount you have to repay, we disregard the value of any improvements you have made to the property since you bought it.

The discount is the amount we deduct from the market value of the property when you bought it, and is shown on the original Right to Buy offer letter we sent you. This is also referred to as the Section 125 or S125 letter.

Examples:

Your home was valued at £100,000 at the time you bought it from us, and you received a discount of £20,000. This equates to 20%.

If you want to sell during the second year after you bought the property, and your home is valued at £150,000 when you want to sell it, you will have to repay:

$$£150,000 \times 20\% \text{ discount} = £30,000 \times 80\% = £24,000$$

If you want to sell during the fourth year after you bought the property, and your home is valued at £170,000 when you want to sell it, you will have to repay:

$$£170,000 \times 20\% \text{ discount} = £34,000 \times 40\% = £13,600$$

If you sell on the lease to your property, you should make sure that any due service charges are paid before the sale is completed. If you wish to sell your lease, or leave it to someone in your Will, you should ensure you get proper legal advice before doing so.

If there are no legal documents showing who the leaseholder is, you will still be legally responsible for, and liable to pay, all future charges on the property.

Right of first refusal

If you bought your home under the Right to Buy scheme on or after 18 January 2005, and you want to sell or dispose of it at any time during the following **10 years**, the law says you must first offer it back to us. This offer has to be made in writing. If we do not wish to buy your property back, we can refer your offer to another social landlord in the area, at the full market value.

The market value must be agreed between all parties or, if they are unable to agree, this will be determined by the district valuer. If your offer has not been accepted by us or another social landlord within 8 weeks, you are free to sell the property on the open market.

Losing your home

There are some circumstances when the Council or your mortgage lender could apply to the Court for possession of your home:

Forfeiture

Forfeiture is where we apply to the court to end your lease because you have not complied with a condition of the lease. For example:

- You do not pay your service charges;
- You cause nuisance and harassment to your neighbours.

If the court decides that you have broken a term of your lease, it has the power to end the lease and give the Council possession of your property. You would not only lose your home but would also lose any equity (profit) you may have gained in the value of the property while you were the leaseholder.

Forfeiture is an extreme action with far reaching consequences for the leaseholder. As a responsible landlord, we'll only use it when we have no other choice. This would usually be to protect the interests of the Council, its tenants and/or other leaseholders in the block. You would also have the opportunity to remedy the breach to avoid us proceeding any further with the Forfeiture of the lease.

We always try to help leaseholders with genuine financial problems and are usually willing to come to a mutually acceptable, realistic arrangement for the repayment of service charge arrears.

If you are having difficulty in paying your service charges, please contact us on 01322 343368 immediately, to see if we can help you sort it out.

Before applying for forfeiture for unpaid service charges, we would have to satisfy a First Tier Tribunal that the charges were reasonable and that we had tried without success to establish a repayment plan with the leaseholder.

Repossession by a mortgage lender

If you begin to experience problems in paying your mortgage, you should ask for help as soon as possible. There are many options available to you to enable you to remain in your home including mortgage rescue scheme, support for mortgage interest scheme and homeowners mortgage support schemes. **Please email triage@dartford.gov.uk.**

Please don't leave it until you are about to be evicted to ask for help.

Mortgage lenders will usually be happy to discuss terms for making mortgage payments easier for you.

If you have arranged a mortgage to buy your lease, your mortgage lender secures the loan by placing a legal charge on your home. This means they can apply to the court for repossession if you do not pay your mortgage. If the court grants them possession, they have the right to evict you, sell your lease and take what you owe them out of the proceeds. They must give you anything which is left over, unless someone else (such as the Council) also has a legal charge on the property for money which is owed to them.

If you lose your home due to forfeiture, repossession by your mortgage lender or repossession by another lender (where a loan has been secured against your property), you may be found to be 'intentionally homeless' if you have to ask us for housing again.

This means that the Council does not have to offer you somewhere new to live and if you have children, you will be referred to Social Services.

Enfranchisement

Buying the freehold of your block

Subject to certain conditions, leaseholders have the right to enfranchise their building as a group if both they and their building qualify. They have this right even if the freeholder or landlord does not wish to sell.

Summary of the Right to Enfranchisement

If at least two-thirds of the residents in your block are long leaseholders, you can apply jointly to buy the freehold of your block and manage it yourselves. This is called 'enfranchisement'. If you and your neighbours qualify under the enfranchisement rules, we cannot refuse to sell you the freehold of the block.

You should seriously consider the following issues before making this decision:

- You would own the freehold of your building jointly with your neighbours and you would have to form a management committee for the block.
- As we would no longer be your landlord, you would all be jointly responsible for the maintenance and management costs for your block
- You would no longer be able to call on our housing service for communal repairs or services, or if you had problems with your neighbours
- If you get on well with your neighbours, you would have more say in the way your block is managed and the money that is spent on it
- If the block still had at least one rented Council property, we would have to be represented on the management committee. The committee would proportionately charge us for its share of any management and maintenance costs for the block.
- The Council would also have to take a 'leaseback' for all properties let on a secure tenancy in the block.

Remember, you can only apply for enfranchisement if at least two-thirds of the properties in your block are held on long leases. If you are interested, you should discuss it with your neighbours and seek independent legal advice.

Lease extensions and renewals

Some leaseholders have the right to extend the lease on their property, if they have a short lease that is becoming a deteriorating asset for them. In these circumstances, individual leaseholders can use their right to extend their lease for a further term of 90 years, without having to act as part of a group (see enfranchisement above).

If you are interested in obtaining a lease extension, please refer to the advice and guidance on lease extensions on the Leasehold Advisory Service website at <https://www.lease-advice.org/advice-guide/lease-extension-getting-started/>

The Council does not deal with lease extensions on an "informal" basis and the Council's leaseholders are therefore required to follow the formal statutory procedure under the Leasehold Reform Urban and Housing Development Act which involves the service of a Notice on the Council. The process is explained in the guidance on the Leasehold Advisory Service website and there is also short article on this on their website at <https://www.lease-advice.org/article/an-informal-lease-extension-a-tailored-fit/>

The Council is not able to provide you with any legal or financial advice in relation to this matter and if you have any queries that are not answered by the information on the Leasehold Advisory Service's website, for example around eligibility to make an application, the length of the lease term or how to submit your application, you will need to consider seeking your own advice from an appropriate solicitor, surveyor or other relevant professional.

We are not able to give an indication of the premium that would payable to the Council for the grant of a new extended lease. As part of the statutory procedure, the applicant proposes a premium figure in the Notice that is served on the Council and then this is considered by the Council's valuer.

Most leaseholders who have owned their property for at least two years on a long lease will qualify. However, the valuation of an extension is not straightforward and leaseholders should therefore seek legal advice.

ਪੰਜਾਬੀ Punjabi 01322 343610	தமிழ் Tamil 01322 343611	Polski Polish 01322 343612	česky Czech 01322 343613	简体中文 Mandarin 01322 343614	Français French 01322 343615
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If you or anybody you know requires this or any other council information in another language, please contact us and we will do our best to provide this for you. Braille, audio tape and large print versions of this document are available upon request.

Tel: 01322 343434

Calls are welcome via Relay UK

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